

D/L- 28
20/02/2025
Ct. No.-6
Aritra

C.O. 1151 of 2024

**M/s. Saluza Exports & Ors.
Versus
The Authorized Officer, Bank of Baroda & Anr.**

Mr. Arani Guha
Mr. Avik Dhar
...for the petitioners

Mr. Dipanjan Datta
Ms. Papiya Dutta
....for the OP Bank

This application under Article 227 of the Constitution of India is at the instance of a borrower and is directed against an order being No.5 dated March 5, 2024 passed by the learned Presiding Officer, Debts Recovery Tribunal III, Kolkata, in I.A. 639 of 2024 filed in S.A./410/2023. By the said order the prayer of the SARFAESI applicant/petitioner herein stood rejected. Challenging such order this application has been filed.

Mr. Datta, learned counsel appearing for the Bank of Baroda raises the preliminary objection as to the entertainability of this application under Article 227 of the Constitution of India. In support of such contention he placed several judgments of the Hon'ble Supreme Court including the judgment of the Hon'ble Supreme Court in the case of **PHR Invent Educational Society vs. UCO Bank and Ors.**, reported at **(2024) 6 SCC 579**.

After some arguments the learned advocate appearing for the petitioner prays for leave to withdraw this application with liberty to approach the learned Debts Recovery Appellate Tribunal. The learned advocate appearing for the petitioner further submits that since the petitioner is enjoying an interim protection the same should be extended for a limited period. Such prayer is opposed by Mr. Datta, learned advocate appearing for the Bank.

Since this Court is not inclined to entertain this application under Article 227 of the Constitution of India, this Court is of the view that the interim protection granted by a co-ordinate Bench of this Court cannot be extended any further.

However, the learned advocate appearing for the petitioner submits that the appeal shall be filed within a fortnight from date.

Mr. Datta learned advocate appearing for the Bank submits that he will give necessary instructions to the Bank not to take any coercive measures against the petitioner for a period of three (3) weeks from date. Such submission is placed on record.

With the above observations CO 1151 of 2024 stands dismissed as withdrawn with liberty to the petitioner to approach the Debts Recovery Appellate Tribunal in accordance with law.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Hiranmay Bhattacharyya, J.)